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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,744	06/27/2003	Roger S. Salmonson	17595-00005	7702

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EXAMINER

FLOOD, MICHELE C

ART UNIT PAPER NUMBER

1654

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/608,744	SALMONSON, ROGER S.	
	Examiner	Art Unit	
	Michele Flood	1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group III, Claims 9 and 10, in the reply filed on December 20, 2004 is acknowledged. The traversal is on the ground that the compositions of each of Groups I, II and III are not compositions comprising different ingredients. This is not found persuasive for the reasons set forth clearly in the previous Office action and for the reasons set forth herein. As well pointed out by Applicant, while each of the compositions of Group I-III require a core components, the invention of Group I comprises two additional ingredients to the core components; and the invention of Group II comprises one additional ingredient to the core components. Thus, the several inventions above are independent and distinct, each from the other. Moreover, a reference which would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application.

The requirement is still deemed proper and is therefore made FINAL.

Claims 9 and 10 are under examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bobrov-Egorov et al. (P) in view of Yokoyama (N), Leontev et al. (Q), Karita et al. (O, translation of foreign patent provided herein) and Pike (*B), and further in view of Zobitne et al. (*A) and Lawless (U).

Applicant claims a composition adapted to reduce pain associated with menstruation comprising an effective amount of each of the following components: cornmint oil, orange oil, pennyroyal oil, rosemary Spanish oil, coriander oil, menthyl acetate, alpha pinene, beta pinene, camphor white oil and calendula oil.

Bobrov-Egorov teaches a composition comprising the following ingredients (wt.%): (i) an aromatising component (0.5-20.0) comprising essential oil derived from mint, fir, coriander, anise, camphor, dill, cloves or fennel and containing a toning preparation (not more than 0.2% of base weight) comprising vanilla and/or oil extracted from filbert, chestnut, pine kernels, walnut, sea buckthorn and/or dog rose; oil extracts from everlastings, Leonorus, yarrow, celandine, thyme, Origanum, St. John's wort, peppermint, sage, dog rose fruit, coriander, caraway, horse chestnut, pine buds and calendula blossom (balance). Bobrov-Egorov further teaches that the referenced composition has analgesic activity; and, is useful in medicine, particularly gynecology.

The teachings of Bobrov-Egorov are set forth above. Bobrov-Egorov teaches the instantly claimed invention except for cornmint oil (although it is not clear as whether the mint oil taught by Bobrov-Egorov is not cornmint oil), orange oil, pennyroyal oil, and rosemary Spanish oil. However, it would have been obvious to one of ordinary skill in

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the art to add the instantly claimed ingredients to the composition taught by Bobrov-Egorov to provide the claimed invention because at the time the invention was made it was known in the art the analgesic functional effects of the claim-designated essential oils. For instance, Yokoyama teaches a composition comprising an essential oil of *Mentha arvensis* an analgesic agent, which is also known in the art as cornmint, as evidenced by the teachings of Zobitne. Note that Zobitne that teaches that cornmint oil includes a high concentration of alpha-pinene and beta-pinene, in Column 2, lines 5-13. Further note that Lawless teaches that cornmint oil comprises menthyl acetate, on page 174. Secondly, Leontev teaches a composition having anesthetic activity comprising effective amounts of a Component (I) comprising camphor and mint oil; and, a Component (II) of any of the following oils: coriander, orange, rose, peppermint, calendula, etc. Thirdly, Karita teaches an analgesic oil composition comprising at least one kind of essential oil selected from a group consisting of orange oil, grapefruit oil, mandarin oil and lemon oil, at least one kind of essential oil selected from a group consisting of lavender oil, lavandin oil and rosemary oil and at least one kind of essential oil selected from a group consisting of eucalyptus oil, chamomile oil, Taiwan hinoki and mugwort oil. In [0023], Karita also teaches that pennyroyal oil (*Mentha pulegium*), *Mentha arvensis* oil (cornmint oil) and rosemary oil (also known in the art as rosemary Spanish oil or *Rosmarinus officinalis*) are useful in the making of the referenced analgesic composition. Fourthly, Pike teaches a composition for alleviating cramps, aches and pains, such as those associated with premenstrual syndrome, comprising pennyroyal oil. At the time the invention was made, one of ordinary skill in

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the art would have been motivated and one would have had a reasonable expectation of success to add effective amounts of cornmint oil (although it is not clear as whether the mint oil taught by Bobrov-Egorov is not cornmint oil), orange oil, pennyroyal oil, and rosemary Spanish oil to the composition taught by Bobrov-Egorov to provide the instantly claimed composition because Yokoyama, Leontev, Karita and Pike teach that the claim-designated ingredients are useful in the making of a composition to reduce pain associated with menstruation.

As each of the references indicate that the various proportions and amounts of the ingredients used in the claimed composition or the claimed composition/pharmaceutical combinations are result variables, they would have been routinely optimized by one of ordinary skill in the art in practicing the invention disclosed by each of the references.


Accordingly, the claimed invention was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, especially in the absence of evidence to the contrary.

* Applicant is advised that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. Should you receive inquiries about the use of the Office's PAIR system, applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHELE FLOOD
PRIMARY EXAMINER
MCF
March 7, 2005